

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

THERESA GORSKI,

Plaintiff,

v.

Case No. 06-11631

Hon. Sean F. Cox

MYRIAD GENETICS,

Defendant.

ORDER

This matter is before the Court on Defendant's Motion in limine to exclude emails. Both parties have fully briefed the issues. For the following reasons, the Court **DENIES** Defendant's Motion in limine to exclude emails.

I. BACKGROUND

This action arises from alleged employment discrimination based on Plaintiff's gender and age. The underlying facts are sufficiently set forth in the Court's Order denying Defendant's motion for summary judgment. [Doc. 39].

On June 26, 2007, Defendant filed a Motion in limine to exclude emails.

II. ANALYSIS

Defendant seeks to exclude the introduction into evidence of several emails authored and received by Plaintiff during her employment. The emails in question are emails sent to Plaintiff's supervisor during her corrective action period and in the month prior to her

termination. Defendant argues the emails are inadmissible hearsay.

Plaintiff responds:

The emails in question are not hearsay because they will not be offered to prove the truth of the matter asserted (i.e., the truth of what any particular medical provider says in any particular email). Rather, Plaintiff will introduce these emails to demonstrate that Mr. Ho repeatedly failed to respond to communications from Ms. Gorski regarding her performance status while on corrective action. Such evidence supports Plaintiff's theory that Myriad placed Ms. Gorski on a corrective action with every intention of firing her at the end of it, regardless of whether or not her performance improved.

[Response, p.2].

The evidence, offered for this purpose, is relevant and does not fall within the definition of hearsay, which is "a statement, other than one made by the declarant while testifying at trial or hearing, offered in evidence to prove the truth of the matter asserted." FRE 801(c).

III. CONCLUSION

For the foregoing reasons, Defendant's Motion in limine to exclude emails is **DENIED**.

IT IS SO ORDERED.

S/Sean F. Cox

Sean F. Cox

United States District Judge

Dated: July 3, 2007

I hereby certify that a copy of the foregoing document was served upon counsel of record on July 3, 2007, by electronic and/or ordinary mail.

S/Jennifer Hernandez

Case Manager